

Walker & Jocke

a legal professional association

Ralph E. Jocke

Patent

&

Trademark Law

November 4, 2005

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: **Application No.:** 10/788,917
Confirmation No.: 7493
Art Unit: 2876
Appellants: Randall Jenkins, et al.
Title: Currency Cassette Access
Based On Facial Recognition
Docket No.: D-1212

Sir:

Please find enclosed the Appeal Brief of Appellants pursuant to 37 C.F.R. § 41.37 for filing in the above-referenced application. Also enclosed is a petition for a one month extension of time.

Please charge the fee required for the Appeal Brief (\$500), the extension of time (\$120), and any other fee due to Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke
Reg. No. 31,029

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this document and the documents indicated as enclosed herewith are being deposited with the U.S. Postal Service as Express Mail Post Office to addressee in an envelope addressed to Mail Stop Appeal Brief - Patents, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 this 7th day of November 2005.

EV735759538US

Express Mail Label No.

330 • 721 • 0000
MEDINA

330 • 225 • 1669
CLEVELAND

330 • 722 • 6446
FACSIMILE

rej@walkerandjocke.com
E-MAIL

231 South Broadway, Medina, Ohio U.S.A. 44256-2601



D-1212

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of)	
Randall Jenkins, et al.)	
)	
Application No.: 10/788,917)	Art Unit 2876
)	
Confirmation No.: 7493)	
)	
Filed: February 27, 2004)	Patent Examiner
)	Steve Paik
)	
Title: Currency Cassette Access)	
Based On Facial Recognition)	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF OF APPELLANTS PURSUANT TO 37 C.F.R. § 41.37

Sir:

The Appellants hereby submit their Appeal Brief pursuant to 37 C.F.R. § 41.37
concerning the above-referenced Application. This Appeal Brief is in response to the Office
Action dated May 20, 2005.

11/09/2005 DTESSEM1 00000024 090428 10788917
01 FC:1251 120.00 DA

11/09/2005 DTESSEM1 00000024 090428 10788917
02 FC:1402 500.00 DA

(i)

REAL PARTY IN INTEREST

The Assignee of all right, title and interest to the above-referenced Application is Diebold, Incorporated, an Ohio corporation.

(ii) RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative, and assignee believe that there are no related appeals or interferences pertaining to this matter.

(iii)

STATUS OF CLAIMS

Claims 1 and 45-70 are pending in the Application.

Claims rejected: 1, 45-48, 50-58, 60-65, and 67-70

Claims allowed: 49, 59, and 66

Claims confirmed: none

Claims withdrawn: none

Claim objected to: none

Claims canceled: 2-44

Appellants appeal the rejections of claims 1, 45-48, 50-58, 60-65, and 67-70, inclusive.

These rejections were in the Office Action ("Action") dated May 20, 2005, which was made

Final.

(iv)

STATUS OF AMENDMENTS

A final rejection was made May 20, 2005. No claim amendments were requested to be admitted after the final rejection.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Concise explanations of exemplary forms of the claimed invention:

With respect to independent claim 1

An exemplary form of the invention is directed to an apparatus. For example, note Figure 39 (e.g., Specification page 72, line 7 to page 76, line 12). The apparatus includes a security system (360). The system can restrict access to the interior of an automated banking machine component (e.g., page 73, lines 2-4; currency cassette 372). The system comprises a database that includes data representative of images of individuals authorized access to the interior of the component (e.g., page 74, lines 4-10). The system also includes a camera (e.g., 366) that can capture an image of an individual (e.g., page 72, lines 19-22). The system further includes image recognition software that can determine whether a captured image of an individual corresponds to an individual represented in the database (e.g., page 73, lines 4-5 and 11-15). The system includes at least one processor, operatively connected to the database and the camera, that can use the recognition software (e.g., page 73, lines 5-6).

With respect to independent claim 61

Another exemplary form of the invention is directed to a method. Support in the disclosure for similar claim language has previously been provided. The method includes capturing an image of an individual with a camera (e.g., 366). The method further includes determining whether the captured image corresponds to an individual represented in a database (e.g., page 73, lines 4-5 and 11-15). The method also includes, responsive to a positive

determination, granting a level of access to the interior of an automated banking machine component (e.g., page 72, lines 8-12; page 73, lines 14-15).

With respect to independent claim 69

Another exemplary form of the invention is directed to an apparatus. Support in the disclosure for similar claim language has previously been provided. The apparatus includes a security system. The security system is operative to restrict access to the interior of an ATM currency container (e.g., 372; page 73, lines 1-5). The security system includes a database that includes data representative of facial images corresponding to respective individuals authorized to access the interior of the ATM currency container (e.g., page 73, lines 5-6). The security system includes a camera (e.g., 366) that is operative to capture an image of an individual. The security system includes facial recognition software (e.g., page 73, lines 4-5) that is operative to determine whether a captured facial image of an individual corresponds to an individual represented in the database. The security system includes at least one processor that is in operative connection with the database and the camera, is operative to use the software, and is operative to grant access to the interior of the ATM currency container responsive to a positive determination (e.g., page 72, lines 8-12; page 73, lines 5-6 and 14-15).

With respect to independent claim 70

Another exemplary form of the invention is directed to a method. Support in the disclosure for similar claim language has previously been provided. The method includes capturing image data corresponding to an image of an individual with a camera (e.g., 366). The

method further includes determining through operation of at least one processor whether the image data corresponds to data associated with an individual in a database (e.g., page 73, lines 4-5 and 11-15). The method also includes, responsive to a positive determination, granting access to an interior area of an automated banking machine, where the interior area includes therein stored currency that is dispensed to machine users during financial transactions conducted through operation of the machine (e.g., page 72, lines 8-12; page 73, lines 14-15).

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- 1). Whether claims 1, 45-46 50-52, 56, 60-65, and 67-70 are unpatentable pursuant to 35 U.S.C. § 103(a) over Zerman (US 2002/71244) in view of Oda (JP 11-15972).
- 2). Whether claims 47-48 and 57-58 are unpatentable pursuant to 35 U.S.C. § 103(a) over Zerman in view of Oda and further in view of Coutts (US 5,563,393).
- 3). Whether claims 53-55 are unpatentable pursuant to 35 U.S.C. § 103(a) over Zerman in view of Oda and further in view of Heath (US 5,451,757).

(vii)

ARGUMENT

The Applicable Legal Standards

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Appellants are under no obligation to submit evidence of nonobviousness. MPEP § 2142.

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

Evidence of record must teach or suggest the recited features. An assertion of knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). Patentability determination must be based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

It is respectfully submitted that the Action requiring appeal does not meet these burdens.

The 35 U.S.C. § 103(a) rejections are legally improper

Appellants traverse the rejections on the grounds that Appellants' claims recite features and relationships which are neither disclosed nor suggested in the prior art, and because there is no teaching, suggestion, or motivation cited so as to produce Appellants' invention. Nor do the references teach or suggest the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed Cir. 1990). The features and relationships recited in Appellants' claims patentably distinguish over the applied references.

The only suggestion for the recited features and relationships is found in Appellants' own novel disclosure. It follows that the rejections are based solely on hindsight reconstruction of Appellants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

The Office has not established a *prima facie* showing of obviousness. Additionally, it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention. Thus, Appellants respectfully submit the rejections are improper and should be withdrawn.

Note regarding recited claim language

For reasons of brevity, claim language may be referred to herein in a shortened or generalized version. For example, language such as "at least one" may be referred to as "a". Any shortened/generalized statement herein is not to limit any of the mentioned claims in any manner. Please refer to the claim for the exact claim language.

Zerman

Zerman is directed to a miniature ATM that is mounted to and through a wall. Zerman conventionally distinguishes a cardholder (customer) using a PIN (numbered paragraph 0036) from an ATM owner using a password (numbered paragraph 0034). The ATM (10) includes a front customer side (16) and a rear owner side (18). The customer's keypad (22) is on the front exterior of the ATM (Zerman's paragraph 0023). The customer side (16) has a card reader slot (32)(paragraph 0026). The customer is required to use a personal identification number (PIN) (paragraph 0036).

The owner's keypad (38) is in the interior of the ATM (paragraph 0027). A rear door (40) has to be open in order to access the owner's keypad (38). The door (40) is opened via a handle (41). Although specific teaching is provided, it appears that the door (40) would have a conventional lock (e.g., key lock) associated therewith. After the door (40) is opened, then the owner's keypad (38) is available for operation to change passwords, input other data, and program the ATM (paragraph 0034). Having the door (40) open also enables the owner to access the cash dispenser (52) and the printer (50).

Oda

The disclosure of Oda is unclear as to the exact details concerning complete and enabling operation of the system. Therefore, the description of any portion of Oda herein or any comments directed thereto shall not be construed as an agreement or an admission by Appellants that Oda's system is capable of achieving any of Appellants recited features.

Oda (at translated page 1, paragraph 002) in the “Description of the Prior Art” section indicates that “a personal identification number is inputted into an identification unit when an operator operates an input unit.” Apparently, Oda is providing conventional examples of using a personally known number when referring to “lock discharge of a safe” (e.g., a safe combination); “access in the Internet” (e.g., a login password); and “ATM” (e.g., a transaction enabling PIN). Oda appears to have an external storage (29) of iris patterns.

Oda’s reference to an ATM is apparently directed to a customer’s conventional use of a PIN to permit a transaction, as evidenced from Zerman’s customer/PIN transaction enabling relationship. Further evidence that Oda limits ATM PIN usage to a customer can also be found in US Patents granted to Oda (e.g., 6,591,001 and 6,731,778). It is unclear whether Oda teaches that if a customer’s iris pattern matches a stored iris pattern, then “it is not necessary [for the customer] to input a personal identification number” (paragraphs 0031 and 0057).

**The Claims Are Not Obvious Over
Zerman in view of Oda**

Claims 1, 45-46 50-52, 56, 60-65, and 67-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zerman in view of Oda.

The (final) Action alleges that Zerman teaches an ATM comprising a cash dispenser (52), cash cassette (54), modem (56) printer, distribution board, and motherboard. The Office relies on an unsupported allegation that “a security system using a password or personal identification number is not as secure as a security system using a biometric data of a user/operator or both the biometric data and a password”.

The Action (page 2, last line) admits that Zerman is silent about a security system. The Action relies upon Oda as allegedly teaching “an iris photography apparatus for use during safety lock release, Internet accessing, ATM transaction by judging whether iris pattern recognized from photographed iris image, corresponds with iris pattern of operator stored beforehand. The apparatus comprises, among other things, a database (memory storing iris patterns of authorized operators of an ATM), a camera (an image pick-up unit 13), and image-recognition software (an iris collation unit judging whether the pattern stored in the memory matches with recognized pattern obviously includes a software with an iris pattern comparison function).”

The Action then alleges that it would have been obvious to “employ an iris photography apparatus in addition to the ATM of Zerman due to the fact that that [sic] more improved and secured access control of a security area can be accomplished for the purposes of improving the levels of security by selectively granting the access to the highly secured area.”

Claim 1

The Action (page 2, last line) admits that Zerman is silent about the recited security system. Zerman is not directed to restricting access to the interior of an automated banking machine component via a security system including image recognition software. Zerman does not use or need image recognition software to enable the owner to access the machine interior. Conversely, access to the interior of Zerman’s ATM (10) and the rear keypad (38) therein appears to be via a conventional key lock in a handle (41) of a door (40) (Zerman’s paragraph 0027). The accessing of the ATM interior is not image recognition dependent.

The ATM owner in Zerman can access the ATM interior to change passwords, input other data, and program the ATM (paragraph 0034). However, use of the password can occur

only after the door (40) has first been opened (and the ATM interior accessed). That is, use of a password in Zerman is not related to opening the door (40). Thus, Zerman does not teach or suggest a security system that can “restrict access to the *interior*,” especially where the security system includes the recited database, camera, image recognition software, and processor.

Furthermore, Zerman teaches that it is the owner who has access to the ATM interior. Zerman teaches away from providing the sole owner with a multi-user security system. It would not have been obvious to provide a multi-user security system for a single person. Nor would it have been obvious to let a customer access an ATM interior.

The Action (at page 2) alleges that Zerman’s use of a password is not as secure as using biometric data. The Appellants respectfully disagree. The Office has presented no evidence to support its allegation. Nor is the Office’s attempt to substitute Zerman’s password with biometric data reasonable. Although biometrics may be convenient, a password can be changed. Regardless, use of either a password or biometric data in Zerman would occur *after* the ATM interior was already accessed. That is, interior ATM access in Zerman would not be dependent on either a password or biometric data. It follows that even if Zerman had the alleged biometric data and it was image data, authorized access to Zerman’s ATM interior still wouldn’t be image dependent.

Appellants respectfully disagree with the Office’s interpretation and application of the Oda reference. Oda cannot alleviate the deficiencies of Zerman as it does not teach or suggest the recited features which are not found in Zerman.

As previously discussed, in Oda a PIN is used by the ATM customer not the ATM owner. That is, PIN usage in Oda (like in Zerman) is for a *customer* (e.g., numbered paragraphs 0002

and 0031). As previously discussed, Zerman distinguishes an ATM customer/PIN relationship (numbered paragraph 0036) from an ATM owner/key relationship (numbered paragraph 0034). Oda's teaching for a *customer* is not applicable to Zerman's (rear side) teaching for an ATM *owner*. Even if it were somehow possible for Oda's customer teaching to be germane to Zerman (which it is not), it would be limited to the front (customer) side of Zerman's ATM (i.e., the ATM side that does *not* permit interior access).

Oda does not teach or suggest a security system with the ability to restrict access to the *interior* of an automated banking machine (e.g., ATM) component. Conventional customer operation of an ATM in Oda (and Zerman) is well known. However, a customer conventionally operating an ATM in Oda (and Zerman) is a far cry from someone accessing the *interior* of the ATM. Where does Oda (or Zerman) permit a (unauthorized) customer to access an ATM interior? Oda does not. Oda does not teach or suggest authorizing access to an ATM's interior to anyone, especially via a security system using image recognition.

Nor does Oda teach or suggest the recited database. Oda (like Zerman) does not discuss a database directed to "individuals authorized access to the *interior*." Further, where does Oda teach a database that "*includes data* representative of images of individuals authorized access to the *interior* of the automated banking machine component"? Customer iris pattern data in Oda is a far cry from data that represents images of individuals having authorization to access the interior of an ATM component.

Furthermore, where (i.e., page and lines) does Oda specifically teach "software", especially image recognition software?

The Action is silent as to how Zerman's ATM could have been structurally modified to have produced the recited invention. It would not have been obvious to have modified (or added to) Zerman's suspended *miniature* ATM, as alleged by the Office. Zerman's desire for a *miniature* ATM teaches against adding additional structure thereto.

Furthermore, the rear portion (18) of Zerman's ATM, by being located behind a wall (12), already provides the desired security to the ATM owner. There is no teaching, suggestion, or need for a camera on the rear (owner) side of Zerman's ATM. Nor does Oda teach or suggest having a camera on the rear side of an ATM. Nor do the references teach or suggest using image recognition with the rear side of an ATM to permit an ATM owner to access the ATM's interior.

The relied upon references, taken alone or in combination, do not teach or suggest the recited apparatus of claim 1. The Office has not presented any evidence that the relied upon references teach or suggest the recited features. The Action's assertions are not based on any evidence in the record. *In re Zurko*, supra. *In re Lee*, supra. The Office has not established a *prima facie* case of obviousness.

The Action is also devoid of any teaching, suggestion, or motivation for applying Oda's teaching directed to a *customer* to Zerman's teaching directed to an ATM *owner*. The teachings are non analogous. Even if it were somehow possible (which it is not) for the references to be combined as alleged, the combination still would not have resulted in the claimed invention.

It appears that the combined teachings, as Oda is best understood, would merely permit an ATM *customer* in Zerman to operate the ATM without using a PIN. The references, taken alone or in combination, still would not teach or suggest the inclusion of an image based security system in Zerman with the ability to determine whether a captured image of an individual

corresponds to an individual authorized to access the interior of Zerman's ATM. The combined references would not have provided a security system that can restrict/allow an individual access to the interior of an automated banking machine component by using image recognition. Neither reference teaches nor suggests image-based access to the interior of an automated banking machine component. It follows that neither Zerman nor Oda, taken alone or in combination, teach or suggest the recited apparatus.

The attempts to combine the alleged teachings are clearly attempts at hindsight reconstruction of the claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, supra. The rejections lack the necessary evidence and rationale, and are based on knowledge gleaned only from Appellants' disclosure.

Appellants respectfully submit that they have provided sufficient reasons to refute the Office's allegation of *prima facie* obviousness. Thus, Appellants further respectfully submit that the rejection of claim 1 is improper and should be withdrawn.

Claim 45

The references, taken alone or in combination, further do not teach or suggest a security system with the ability to determine whether a captured image of an individual corresponds to an individual authorized to access the interior of a security container of an automated banking machine. The accessing of Zerman's cash cassette (54) is not image dependent. The Office has not established a *prima facie* showing of obviousness.

Claim 46

Claim 46 depends from claim 45/1. The combined references further do not teach or suggest the ability to determine whether a captured image of an individual corresponds to an

individual authorized to access the interior of a currency cassette of an automated banking machine. The Office has not established a *prima facie* showing of obviousness.

Claim 50

Claim 50 depends from claim 45/1. The combined references further do not teach or suggest an automated banking machine including a security system with the ability to determine whether a captured image of an individual corresponds to an individual authorized to access the interior of a security container of the machine. The Office has not established a *prima facie* showing of obviousness.

Claim 51

The combined references further do not teach or suggest a security system including facial recognition software that can determine whether a captured facial image of an individual corresponds to an individual represented in a (authorization) database, nor a processor that can grant access to the component interior responsive to a positive determination. The Office has not established a *prima facie* showing of obviousness.

Claim 52

Claim 52 depends from claim 51/1. The combined references further do not teach or suggest that the processor can also cause a captured facial image to be stored in a file. The Office has not established a *prima facie* showing of obviousness.

Claim 56

The combined references further do not teach or suggest a security system with the ability to determine whether a captured image of an individual corresponds to an individual authorized

to access the interior of a currency cassette. The Office has not established a *prima facie* showing of obviousness.

Claim 60

Claim 60 depends from claim 56/1. The Action is silent as to where the references teach or suggest a cassette work station, especially a cassette work station that includes the recited security system. The Office has not established a *prima facie* showing of obviousness.

Claim 61

For reasons of brevity, Appellants' previous remarks regarding the patentability of claim 1 are incorporated herein by reference. For reasons already discussed, neither Zerman nor Oda, taken alone or in combination, teach or suggest the recited method.

The combined references do not teach or suggest granting a level of access to the interior of an automated banking machine component responsive to determining that a camera-captured image of an individual corresponds to an individual represented in a database. As previously discussed (e.g., claim 1 remarks), neither reference teaches or suggests image-based access to the interior of an automated banking machine component. The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to have combined the references as alleged to have produced the recited invention.

Claim 62

The combined references further do not teach or suggest capturing a facial image of an individual, and granting a level of access to the interior of an automated banking machine component responsive to determining that the captured facial image corresponds to an individual represented in a database. The Office has not established a *prima facie* showing of obviousness.

Claim 63

Claim 63 depends from claim 62/61. The combined references further do not teach or suggest capturing a facial image of an individual, and granting a level of access to the interior of an automated banking machine component responsive to determining (using facial recognition software) that the captured facial image corresponds to an individual represented in a database. The Office has not established a *prima facie* showing of obviousness

Claim 64

Claim 64 depends from claim 63/62/61. The combined references further do not teach or suggest capturing a facial image of an individual, and granting a level of access to the interior of an automated banking machine security container (including at least one currency cassette) responsive to determining (using facial recognition software) that the captured facial image corresponds to an individual represented in a database. The Office has not established a *prima facie* showing of obviousness.

Claim 65

Claim 65 depends from claim 64/63/62/61. The combined references further do not teach or suggest capturing a facial image of an individual, and granting direct access to the interior of an automated banking machine security container (including at least one currency cassette) responsive to determining (using facial recognition software) that the captured facial image corresponds to an individual represented in a database. The Office has not established a *prima facie* showing of obviousness.

Claim 67

The combined references further do not teach or suggest granting a level of access to the interior of an automated banking machine security container responsive to using a processor to determine that a captured image corresponds to an individual represented in a database. The Office has not established a *prima facie* showing of obviousness.

Claim 68

Claim 68 depends from claim 67/61. The combined references further do not teach or suggest granting a level of access to the interior of an automated banking machine currency cassette responsive to using a processor to determine that a captured image corresponds to an individual represented in a database. The Office has not established a *prima facie* showing of obviousness.

Claim 69

For reasons of brevity, Appellants' previous remarks regarding the patentability of claim 1 are incorporated herein by reference. For reasons already discussed, neither Zerman nor Oda, taken alone or in combination, teach or suggest the recited apparatus of claim 69.

The references, taken alone or in combination, do not teach or suggest a security system that can restrict/grant an individual access to the interior of an ATM currency container by using facial recognition. Neither reference teaches or suggests having access to the interior of an ATM currency container based on image correspondence. The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to have combined the references as alleged to have produced the recited invention.

Claim 70

For reasons of brevity, Appellants' previous remarks regarding the patentability of claims 1 and 69 are incorporated herein by reference. For reasons already discussed, neither Zerman nor Oda, taken alone or in combination, teach or suggest the recited method.

The references, taken alone or in combination, do not teach or suggest granting access to an interior area (including stored currency) of an automated banking machine responsive to determining that camera-captured image data for an individual corresponds to an individual's data represented in a database.

The Office has not established a *prima facie* showing of obviousness. As previously discussed, neither reference teaches or suggests image-based access to the interior of an automated banking machine. Zerman's interior ATM access is at best key-based. Further, Zerman's use of a password is after interior access is already achieved. Thus, interior access cannot be password (or image) dependent. Zerman's teaching is directed to the owner side of an ATM, whereas Oda's teaching is directed to the opposite customer side. Oda provides no access to currency in an interior of an automated banking machine. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

The Claims Are Not Obvious Over Zerman in view of Oda and Coutts

Claims 47-48 and 57-58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zerman in view of Oda and Coutts.

The Action (on page 4) admits that Zerman/Oda does not teach or suggest the recited automated banking machine security container including a lock control device. As best understood, the Action relies upon Coutts' currency cassette sensors (42, 44) as a lock control device to provide a more "secured access control" to the cassette interior.

Coutts is non analogous art. Nor does Coutts teach or suggest the recited features admitted by the Office as absent in Zerman/Oda. The relied upon sensors (42, 44) in Coutts are in the ATM (col. 4, line 1). Coutts' conventional cassette present sensor (42) enables an ATM to detect the presence of the currency cassette therein. Coutts' conventional currency low sensor (44) enables an ATM to know whether a low currency level has been reached in the cassette. Typically, such sensors receive physical contact from a component of the cassette. For example, a component representing a cassette's currency level may be moved (e.g., via spring loading) to contact a currency low sensor when the currency level reaches a predetermined low level.

The relied upon sensors (42, 44) in Coutts do not relate to controlling a lock. Nor do the Coutts' sensors (42, 44) relate to controlling access to any container interior. At best, the sensors (42, 44) inform the ATM of the presence/condition of a cassette. Where in Coutts does a currency cassette have a lock control device, especially a device that can control access to the cassette's interior? Coutts sensors (42, 44) are in the ATM (col. 4, line 1). Where in Coutts is a currency cassette lock control device operatively connected to a processor? It follows that the relied upon sensors (42, 44) in Coutts cannot constitute the recited lock control device.

Claim 47

Claim 47 depends from claim 46/45/1. The combined references further do not teach or suggest an automated banking machine security container including a lock control device,

especially where the lock control device controls access to the security container interior. Nor do the combined references teach or suggest that the lock control device is also operatively connected to the processor. As previously discussed, the relied upon sensors (42, 44) in Coutts do not constitute the recited lock control device. The Office has not established a *prima facie* showing of obviousness.

Claim 48

Claim 48 depends from claim 47/46/45/1. The combined references further do not teach or suggest that the processor (which is operatively connected to the lock control device) is operative to grant access to the interior of the security container responsive to a positive determination that the captured image of the individual corresponds to an individual represented in the (authorization) database. Again, the relied upon sensors (42, 44) in Coutts are non analogous to the recited subject matter. The Office has not established a *prima facie* showing of obviousness.

Claim 57

Claim 57 depends from claim 56/1. For reasons of brevity, Appellants' previous remarks regarding the patentability of claim 47 are incorporated herein by reference. As previously discussed, the combined references further do not teach or suggest a currency cassette that includes a lock control device, especially where access to the interior of the currency cassette is controlled by the lock control device. Nor do the combined references teach or suggest that the lock control device is also operatively connected to the processor. As previously discussed, the relied upon sensors (42, 44) in Coutts do not constitute the recited lock control device. The Office has not established a *prima facie* showing of obviousness.

Claim 58

Claim 58 depends from claim 57/56/1. For reasons of brevity, Appellants' previous remarks regarding the patentability of claim 48 are incorporated herein by reference. As previously discussed, the combined references further do not teach or suggest that the processor (which is operatively connected to the currency cassette lock control device) is operative to grant access to the interior of the currency cassette responsive to a positive determination that the captured image of the individual corresponds to an individual represented in the (authorization) database. The Office has not established a *prima facie* showing of obviousness.

The Claims Are Not Obvious Over Zerman in view of Oda and Heath

Claims 53-55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zerman in view of Oda and Heath.

The Action (on page 5) admits that Zerman/Oda does not teach or suggest the structural ability for "storing the data [sic] and time of attempted and granted access to the interior of the component and using a serial number for further authentication". The Action relies upon Heath for the features admitted by the Office as absent in Zerman/Oda.

Claim 53

Claim 53 depends from claim 52/51/1. The combined references further do not teach or suggest a security system processor (operatively connected to a database and a camera) that can cause a captured facial image along with the date and time of an attempted access to the interior of an automated banking machine component to be stored in a file. Heath does not teach or

suggest storing in a file each of a captured facial image, the date of an attempted access, and the time of the attempted access. Where does Heath store any image, especially a facial image together with the date and time of an attempted access to an automated banking machine component interior? It follows that Heath cannot alleviate the admitted deficiencies in Zerman/Oda. Nor has a *prima facie* showing of obviousness been established.

Claim 54

Claim 54 depends from claim 52/51/1. The combined references further do not teach or suggest a security system processor (operatively connected to a database and a camera) that can cause the storage in a file of a captured facial image along with a date and time of a granted access to the interior of the component. Heath does not teach or suggest storing in a file each of a captured facial image, the date of an granted access, and the time of the attempted granted. The Office has not established a *prima facie* showing of obviousness.

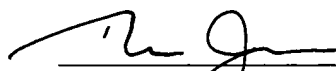
Claim 55

Claim 55 depends from claim 54/52/51/1. The combined references further do not teach or suggest a security system processor (operatively connected to a database and a camera) that can cause each of a captured facial image, the date of a granted access, the time of the granted access, and a cassette serial number to be stored in a file. Again, the Office has not established a *prima facie* showing of obviousness.

CONCLUSION

Each of Appellants' pending claims specifically recites features and relationships that are neither disclosed nor suggested in any of the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for combining features of the applied prior art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



Ralph E. Jocke
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000

Reg. No. 31,029

(viii)

CLAIMS APPENDIX

1. An apparatus including:

a security system,

wherein the system is operative to restrict access to the interior of an
automated banking machine component,

wherein the system includes a database,

wherein the database includes data representative of images of
individuals authorized access to the interior of the automated
banking machine component,

wherein the system includes a camera,

wherein the camera is operative to capture an image of an
individual,

wherein the system includes image recognition software,

wherein the software is operative to determine whether a captured image of an individual corresponds to an individual represented in the database,

wherein the system includes at least one processor,

wherein the at least one processor is operatively connected to the database and the camera,

wherein the at least one processor is operative to use the software.

45. The apparatus according to claim 1 and further including an automated banking machine, wherein the automated banking machine includes an automated banking machine component, wherein the component comprises a security container.
46. The apparatus according to claim 45 wherein the security container includes at least one currency cassette.
47. The apparatus according to claim 46 wherein the security container includes a lock control device, wherein access to the interior of the security container is controlled by the lock control device, and wherein the lock control device is operatively connected to the at least one processor.

48. The apparatus according to claim 47 wherein the at least one processor is operative to grant access to the interior of the security container responsive to a positive determination.
50. The apparatus according to claim 45 wherein the automated banking machine includes the security system.
51. The apparatus according to claim 1 wherein the software comprises facial recognition software, wherein the database includes data representative of facial images corresponding to respective individuals, wherein the software is operative to determine whether a captured facial image of an individual corresponds to an individual represented in the database, and wherein the at least one processor is operative to grant access to the interior of the component responsive to a positive determination.
52. The apparatus according to claim 51 wherein the at least one processor is operative to store a captured facial image in a file.
53. The apparatus according to claim 52 wherein the at least one processor is operative to store in the file the captured facial image along with a date and time of an attempted access to the interior of the component.

54. The apparatus according to claim 52 wherein the at least one processor is operative to store in the file the captured facial image along with a date and time of a granted access to the interior of the component.
55. The apparatus according to claim 54 wherein the at least one processor is operative to store a cassette serial number in the file.
56. The apparatus according to claim 1 and further including an automated banking machine component, wherein the component comprises a currency cassette.
57. The apparatus according to claim 56 wherein the cassette includes a lock control device, wherein access to the interior of the cassette is controlled by the lock control device, and wherein the lock control device is operatively connected to the at least one processor.
58. The apparatus according to claim 57 wherein the at least one processor is operative to grant access to the interior of the cassette responsive to a positive determination.
60. The apparatus according to claim 56 and further including a cassette work station, wherein the work station includes the security system.

61. A method including:
- (a) capturing an image of an individual with a camera;
 - (b) determining whether the captured image corresponds to an individual represented in a database;
 - (c) responsive to a positive determination in (b), granting a level of access to the interior of an automated banking machine component.
62. The method according to claim 61 wherein (a) includes capturing a facial image of an individual.
63. The method according to claim 62 wherein (b) includes using facial recognition software.
64. The method according to claim 63 wherein (c) includes granting a level of access to the interior of a security container of an automated banking machine, wherein the security container includes at least one currency cassette.
65. The method according to claim 64 wherein the level of access comprises direct access to the interior of the automated banking machine component, wherein (c) includes granting direct access to the security container.

67. The method according to claim 61 wherein at least one processor is operatively connected to the database and the camera, wherein (b) includes using the at least one processor to determine whether the captured image corresponds to an individual represented in the database.

68. The method according to claim 67 wherein the component comprises a currency cassette, wherein (c) includes granting a level of access to the interior of the currency cassette.

69. Apparatus including:

a security system,

wherein the security system is operative to restrict access to the interior of an automated teller machine ("ATM") currency container,

wherein the security system includes a database,

wherein the database includes data representative of facial images corresponding to respective individuals authorized to access the interior of the ATM currency container,

wherein the security system includes a camera,

wherein the camera is operative to capture an image of an individual,

wherein the security system includes facial recognition software,

wherein the software is operative to determine whether a captured facial image of an individual corresponds to an individual represented in the database,

wherein the security system includes at least one processor,

wherein the at least one processor is in operative connection with the database and the camera,

wherein the at least one processor is operative to use the software,

wherein the at least one processor is operative to grant access to the interior of the ATM currency container responsive to a positive determination.

70. A method comprising:

- (a) capturing image data corresponding to an image of an individual with a camera;
- (b) determining through operation of at least one processor whether the image data corresponds to data associated with an individual in a database;
- (c) responsive to a positive determination in (b), granting access to an interior area of an automated banking machine, wherein the interior area includes therein stored currency that is dispensed to machine users during financial transactions conducted through operation of the machine.

(ix)

EVIDENCE APPENDIX

(None)

(x)

RELATED PROCEEDINGS APPENDIX

(None)